

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**2:06 CR 12  
(MAXWELL)**

**RICHARD WAYNE WEAVER,**

**Defendant.**

**ORDER**

By Order entered April 18, 2006, the Court referred any pre-trial motions to be filed on behalf of either the United States of America or the Defendant in the above-styled criminal action to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), and authorized Magistrate Judge Kaull to conduct any necessary hearings in resolving said motions or in preparation for submission of proposed findings of fact and recommendation for disposition.

On May 26, 2006, a Motion To Suppress was filed by the Defendant in the above-styled criminal action (See Docket No. 16).

The docket in the above-styled criminal action reflects that a hearing on the Defendant's Motion To Suppress was conducted by United States Magistrate Judge John S. Kaull on June 13, 2006.

A Response to the Defendant's Motion To Suppress was filed by the United States on June 21, 2006<sup>1</sup>.

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<sup>1</sup>It should be noted that Magistrate Judge Kaull's June 21, 2006, Report And Recommendation/Opinion reflects that the United States' response to the Defendant's Motion To Suppress was due on June 5, 2006, but was never filed. It seems likely to the

On June 21, 2006, Magistrate Judge Kaull entered a Report And Recommendation/Opinion wherein he recommended that the Court deny the Defendant's Motion To Suppress.

Magistrate Judge Kaull's Report And Recommendation/Opinion advised the parties, pursuant to 28 U.S.C. § 636(b)(1), that any objections to said Report And Recommendation/Opinion which were not filed, in writing, with the Clerk of Court within ten (10) days after being served with a copy of said Report And Recommendation/Opinion would be waived.

The docket in the above-styled criminal action reflects that Defendant's Objections To Report And Recommendation/Opinion Regarding Defendant's Motion To Suppress were filed with the Court on July 6, 2006 (See Docket No. 24).

The Court has reviewed the record before it and has conducted a *de novo* review of all matters before Magistrate Judge John S. Kaull in considering the Defendant's Motion To Suppress. It appears to the Court that Magistrate Judge Kaull's June 21, 2006, Report And Recommendation/Opinion accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled criminal action. The Defendant's Objections have not raised any issues which were not thoroughly and accurately considered by Magistrate Judge Kaull in his Report And Recommendation/Opinion. Accordingly, it is

**ORDERED** that Magistrate Judge Kaull's Report And Recommendation/Opinion (Docket No. 20) be, and is hereby, **ACCEPTED** in whole. It is further

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Court that Magistrate Judge Kaull had simply not yet received the Government's Response to the Defendant's Motion To Suppress at the time he entered his Report And Recommendation/Opinion.

**ORDERED** that the Defendant's Motion To Suppress (Docket No. 16) be, and the same hereby is, **DENIED** in accordance with the recommendation of United States Magistrate Judge John S. Kaull.

The Clerk of Court is directed to transmit copies of this Order to counsel of record in the above-styled criminal action.

**ENTER:** August 25<sup>th</sup>, 2006

  
United States District Judge